

PATENT
Serial No. 08/372,676
Docket No. 304142800300
Docket No. 434-047

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14 40. (New) The diagnostic kit of claim ~~34~~⁸, wherein the sample is obtained from an individual suspected of having a cancer selected from the group consisting of melanoma, neuroblastoma, glioma, sarcoma, and small cell carcinoma.

15 41. (New) The diagnostic kit of claim ~~34~~⁸, wherein the biological sample is obtained from an individual treated with an antibody according to claim ~~21~~.

REMARKS

Applicants thank Examiner Reeves and Supervisory Examiner Budens for granting interviews with applicants' attorneys on May 15, 1996 and June 11, 1996, and for informal discussions which have led to the claims of the present amendment.

Applicants understand that the wording of the newly added claims is acceptable with the Patent and Trademark Office in reference to the present application, and free of the prior art of record.

Applicants are grateful to the Examiner for pointing out a typographical error in ¶ 5 of the 37 CFR § 1.132 Declaration by Malaya Bhattacharya-Chatterjee, filed on or about March 18, 1996 concurrently with a supplemental response to the Paper No. 6. The Examiner is correct in pointing out that the ATCC Accession No. should have been recited as "HB-11786". A communication to this effect signed by applicants' agent is filed herewith.

PATENT
Serial No. 08/372,676
Docket No. 304142800300
Docket No. 434-047

Regarding claim amendments

Claims 1, 4, 7-9, and 10-26 are pending in this application; claims 5-6 are withdrawn from consideration. Claims 1, 4, 7-9, and 10-26 stand variously rejected.

By way of this amendment, claims 1 and 4-26 are canceled, and claims 27-41 are added. The amendments are made to expedite prosecution of the present application, and are not intended to be a dedication to the public of any subject matter taught in the disclosure, including but not limited to the claims as originally presented or subsequently amended. Applicants intend to pursue additional subject material of the present application in future applications.

Support for the new claims may be found *inter alia* as follows: New claim 27 derives support *inter alia* from claim 1 as originally filed. New claim 28 is supported *inter alia* by the description on p. 13 line 30 ff. of the disclosure. The deposit of a 1A7 antibody-producing cell line with the ATCC under Accession No. HB-11786 is referred to on p. 10 lines 19-23.

New claims 29 and 30 recite antibody produced by or purified from the hybridoma or progeny of claim 28. Purification of antibody produced by the hybridoma or progeny is described, *inter alia*, on p. 15 line 7 ff.

New claims 31-41 derive support from the disclosure *inter alia* as previously described for claims 11, 7-9, and 20-26. Neuroblastoma, glioma and sarcoma recited in claim 40 are supported as GD2-associated cancers, *inter alia*, on p. 4 line 21 to p. 8 line 7; and p. 11 lines 22-25. Claim 41 is supported by the experiments on pp. 15-18.

Thus, no new matter is added to the disclosure as a result of the amendments put forward herein.

PATENT
Serial No. 08/372,676
Docket No. 304142800300
Docket No. 434-047

DISCLOSURE UNDER 37 CFR § 1.97

Copies of U.S. Patent No. 4,849,509 to Thurin et al. (issued July 18/89), and No. 5,053,224 to Koprowski et al. (issued Oct. 1/91) are provided for consideration with respect to the subject application. A copy of the references and a PTO-1449 form are submitted herewith. The Examiner is requested to make these references of record in the application.

This Supplemental Information Disclosure Statement is submitted after receipt of the first Office Action on the merits. The Assistant Commissioner is hereby authorized to charge any fees which may be required by this statement to Deposit Account Number 03-1952.

Applicants would appreciate the Examiner initialing and returning the Form PTO-1449, indicating that the references have been considered and made of record herein.

This Supplemental Information Disclosure Statement under 37 C.F.R. § 1.97 is not to be construed as a representation that: (i) a complete search has been made; (ii) additional information material to the examination of this application does not exist; (iii) the information, protocols, results and the like reported by third parties are accurate or enabling; or (iv) the above information constitutes prior art to the subject invention.

CONCLUSION

Applicants request that any outstanding rejections under 35 USC §§ 102, 103, and 112 be reconsidered and withdrawn in light of the amendments and remarks made previously and herein. The amendments and remarks are believed to place the application in condition for allowance, and an early Notice of Allowance is respectfully requested.

PATENT
Serial No. 08/372,676
Docket No. 304142800300
Docket No. 434-047

If the Examiner believes there are any outstanding matters to be resolved before issuance of a Notice of Allowability, she is invited to telephone applicants' agent at the telephone number listed below.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension or other relief is required, applicant petitions for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and other fees due in connection with the filing of this document to our Deposit Account No. 03-1952. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,



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